

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GMAC MORTGAGE LLC,

Plaintiff,

v.

MIGUEL LOPEZ,

Defendant.

No. C 11-05475 JSW

**ORDER ADOPTING REPORT
AND RECOMMENDATION AND
REMANDING ACTION TO
STATE COURT**

On November 10, 2011, Defendant Miguel Lopez removed this unlawful detainer action from Solano County Superior Court. However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at *3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court.

This matter was pending before Magistrate Judge Maria-Elena James who set out the jurisdictional standard and an order requiring Defendant Miguel Lopez to appear to show cause in writing why this case should not be remanded to the Solano County Superior Court. Having received no response and, facing reassignment to the undersigned, Magistrate James set out a Report and Recommendation (“Report”) finding that jurisdiction was lacking and recommending the case be remanded. The Court has not received any objections to the Report.

1 The Court has reviewed Magistrate Judge James' Report and finds it correct, well-
2 reasoned and thorough, and adopts it in every respect. Accordingly, this case is REMANDED
3 to the Solano County Superior Court.

4 **IT IS SO ORDERED.**

5
6 Dated: January 5, 2012


7 JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GMAC MORTGAGE LLC,
Plaintiff,

Case Number: CV11-05475 JSW

CERTIFICATE OF SERVICE

v.

MIGUEL LOPEZ et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 6, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Miguel Lopez
1900 Dailey Court
Dixon, CA 95620

Dated: January 6, 2012



Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk